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Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

The death penalty, Belarus, and the UN Human Rights Council – more of the same?

"It is torture for the mother ... They tortured my child to obtain the necessary testimony, and now they are just torturing me."
Lubou Kavalyoua talking about her experience of learning about the execution of her son, Uladzslau, only after it had taken place and the authorities' refusal to return his body for burial

Introduction

Belarus continues to execute prisoners in strict secrecy. It is the last country in Europe and Central Asia that uses the death penalty. The Special Rapporteur on the situation of human rights in Belarus has expressed concerns over the way death sentences are carried out and has urged the authorities to impose an immediate moratorium on death sentences and to refrain from carrying out further executions.[1]

Amnesty International regrets that, to date, Human Rights Council resolutions on Belarus have been virtually silent on this crucial element of the country's human rights record and urges it to strongly condemn the use of the death penalty at this session.

Executions in 2014

Earlier this year, Amnesty International reported that Belarus had not executed anyone in 2013, the first year without executions since 2009[2]. At a Minsk round table of the re-established parliamentary working group on the death penalty and the Council of Europe, the Patriarchal Exarch of the Belarusian Orthodox Church spoke in favour of abolishing capital punishment. These seemed progressive steps for a country that had continued to use a punishment that the rest of the region has consigned to history. However, in April news emerged that at least two men were executed in 2014. "At least", because strict secrecy cloaks the use of the death penalty in Belarus. At least two other men, Eduard Lykau and Alyaksandr Haryunou, also sentenced to death in 2013, remain on death row; both are at risk of imminent execution.

In mid-April 2014, Pavel Selyun was secretly executed. The same month, Rygor Yuzepchuk's death sentence was carried out, but it only became public knowledge on 8 May. They had been sentenced to death in 2013; the sentences were upheld in July and September 2013, respectively, and appeals for clemency were automatically sent to the President of Belarus, Alyaksandr Lukashenka.

Pavel's mother, Tamara, had written her own plea to President Lukashenka asking for clemency for her son. She was never told that clemency had been denied, nor was she informed of his impending execution. Pavel's mother only found out from their lawyer who, in turn, had known nothing of the execution until she went to meet Pavel in prison and was told: "He has departed, in accordance with his sentence." An official letter confirming the execution on 17 April followed afterwards.

What happened to their sons?

Tamara's experience is not an isolated one. Other families in Belarus have been subjected to the inhuman treatment of being denied the chance of a final goodbye with their loved ones.

Lubou Kavalyoua found out about the execution of her son, Uladzslau, through a letter from the Belarus Supreme Court

[1] "Halt further executions – UN expert calls on Belarus for an immediate death sentence moratorium", *UN News Centre*, 25 April 2014, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14537&LangID=E (accessed 6 June 2014).
[2] *Death Sentences and Executions 2013* (Index: ACT 50/001/2014), page 28.

she received the day after the execution.[3] The death certificate stated the cause of death as: "No information provided". As is common practice, in accordance with Belarusian law, the authorities refused to release his body. "It is torture for the mother," she told us last year. "They tortured my child to obtain the necessary testimony, and now they are just torturing me."

Her son was executed with Dzmitry Kanavalau in March 2012 in connection with a series of bomb attacks. They had been sentenced to death in November 2011 after an unfair trial which included claims of forced confessions. Lubou Kavalyoua last saw her son on 11 March, a few days before his execution, not knowing this would be the final goodbye.

Nina Semyonovna also did not know about her son's execution until after it had taken place. The exact date of Andrei Burdyka's execution is not known, but it is believed to have taken place between 14 and 19 July 2011. That month, Nina Semyonovna visited her son's prison, where she was informed that he had been shot and was handed his clothing and glasses. "He deserved to be punished," Nina told the local press later that year, "but he should be buried according to the Christian canons."[4]

On 19 March 2010, when Andrei Zhuk's mother, Svetlana, brought one of her usual food parcels to the prison in Minsk, she was turned away. Her son "had been moved", officials told her, and she should not come looking for him anymore. Three days later she was informed that her son and another man had been shot, possibly on the day before her attempted visit. Her husband suffered a heart attack upon hearing the news and had to be taken to the hospital. Film footage taken later by a Belarusian human rights organization shows Svetlana foraging in woodland on the outskirts of Minsk, looking for her son's grave. "Buried like a dog," she says.

A persistent practice of violating the rights of the prisoners and their families

In Belarus, death sentences are implemented in strict secrecy. Data on the use of the death penalty are a state secret. Condemned prisoners are given no warning that they are about to be executed; they are taken out of their cells, told that their appeal for clemency has been turned down; forced to their knees and shot in the back of the head. Families and legal representatives are only told after the execution has taken place – if they are told at all.

Following the executions in 2012 and 2014, in an apparent change of practice, the letters confirming the executions were sent to the families within days after the event, not, like in the past, weeks or even months after.

In all of the cases listed, communications had been filed with the UN Human Rights Committee, which requested that sentences not be carried out until it had considered the communications. In all cases, the Belarusian authorities proceeded with the executions regardless.

Over a decade ago, in 2003, in two cases from Belarus brought by mothers of two executed men, the Committee decided that the circumstances of the executions in 1999 caused continued anguish and mental stress to the mothers, had the effect of intimidating or punishing families by intentionally leaving them in a state of uncertainty and mental distress, and amounted to inhuman treatment of the mothers.[5] The Committee confirmed this position in October 2012 in a case brought by Lubou Kavalyoua and her daughter on behalf of their son and brother Uladzslau, and concluded that "these elements, cumulatively, and the subsequent persistent failure to notify the authors of the location of Mr. Kovalev's grave, amount to inhuman treatment" of his mother and sister.[6]

[3] http://www.amnesty.org/en/news/death-penalty-belarus-i-can-t-believe-he-s-not-here-any-more-2013-04-12 (accessed 6 June 2014).

[4] http://livewire.amnesty.org/2011/10/07/the-death-penalty-in-belarus-families-painful-wait/ (accessed 6 June 2014).

[5] UN document CCPR/C/77/D/886/1999; and UN document CCPR/C/77/D/887/1999.

[6] UN document CCPR/C/106/D/2120/2011, paragraph 11.10.

Secrecy: cruel, inhuman and degrading treatment of those on death row and their families

The UN Secretary-General has said that States have an obligation not to practise the death penalty in secrecy.[7] The UN Special Rapporteur on torture has stated that "secret executions violate the rights of the convict and family members to prepare for death."[8]

When reporting to the Human Rights Council in June 2013, the Special Rapporteur on Belarus noted developments that could be seen as signs of openness towards reform, but criticized the lack of transparency about persons held on death row and executions, the systematic dismissal of views of the Human Rights Committee, and an inadequate procedure for appeals. He concluded that the way the death penalty is carried out in Belarus amounted to inhuman treatment.[9]

Yet, at the same session, the Council resolution only noted "the attention paid by the Special Rapporteur to the issue of the death penalty in Belarus …".[10] This scant reference is even more troubling considering that in 2012 the Council had called on States to ensure that the inmates and their families are given information about a pending execution, to allow a last visit or communication, and to return the body to the family for burial or to say where it is located.[11]

In his 2014 report, the Special Rapporteur reiterates death penalty concerns, including with regard to lack of transparency in its use and fair trials. He recommends that the Belarusian authorities "activate the work of the parliamentary working group on the death penalty, release comprehensive information on those executed to date and establish an immediate moratorium on the use of the death penalty with a view to its permanent abolition".[12]

Amnesty International urges the Human Rights Council to clearly condemn the use of the death penalty in Belarus and echo the calls of the Special Rapporteur. It is high time for the Council to do so.

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[7] UN document A/65/280, 11 August 2010, paragraph 72.
[8] UN document A/67/279, 9 August 2012, paragraph 40.
[9] UN document A/HRC/23/52, 18 April 2013, paragraph 45.
[10] UN document A/HRC/RES/23/15, 24 June 2013, operative paragraph 4.
[11] Resolution 19/37 "Rights of the child", adopted without a vote on 23 March 2012, operative paragraph 69 (f).
[12] UN document A/HRC/26/44, 22 April 2014, paragraph 139 (d).